

ENTERED

March 19, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

JOSE VIELMA-GARCIA
Movant

VS.

UNITED STATES OF AMERICA
Respondent

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CIVIL ACTION NO. M-14-759

CRIMINAL NO. M-11-284-1

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which motion had been referred to the Magistrate Court for a report and recommendation. On March 30, 2017, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's Motion to Dismiss be granted, and that Movant's section 2255 motion be dismissed with prejudice, and that a Certificate of Appealability be denied upon the issuance of this Court's final order. Also pending before the Court are Movant's objections to the Report and Recommendations (Docket Entry No. 15). Although Movant was given additional time to respond to the Motion to Dismiss because it was not provided earlier access to trial counsel's affidavit (Docket Entry No. 17), Movant made no additional response after having received trial counsel's affidavit.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has conducted a de novo review of the Report and Recommendation. Finding no clearly erroneous error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Respondent's Motion to Dismiss (Dkt. Entry No. 9) is **GRANTED**, and Movant's section 2255 claims are **DISMISSED** with prejudice. A Certificate of Appealability is **DENIED**.

SO ORDERED this 19th day of March, 2018, at McAllen, Texas.

A handwritten signature in black ink that reads "Randy Crane". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "a", and the "C" is also large and loops around the "r". The "e" is written with a simple horizontal stroke.

Randy Crane
United States District Judge